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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 23rd August, 2005:—

I

BILL No. LXXXVII OF 2005

A Bill to amend the National Commission for Minority Educational Institutions Act, 2004.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the National Commission for Minority Educational Institutions (Amendment) Act, 2005. Short title.

2 of 2005. 2. In section 2 of the National Commission for Minority Educational Institutions Act, 2004 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) in clause (a), the word "Scheduled" shall be omitted;

(ii) after clause (a), the following clause shall be inserted, namely:—

'(aa) "appropriate Government" means,—

(i) in relation to an educational institution recognised for conducting its programmes of studies under any Act of Parliament, the Central Government; and

(ii) in relation to any other educational institution recognised for conducting its programmes of studies under any State Act, a State Government in whose jurisdiction such institution is established;';

(iii) after clause (c), the following clause shall be inserted, namely:—

(ca) "Competent authority" means the authority appointed by the appropriate Government to grant no objection certificate for the establishment of any educational institution of their choice by the minorities;';

(iv) after clause (d), the following clause shall be inserted, namely:—

(da) "educational rights of minorities" means the rights of minorities to establish and administer educational institutions of their choice;';

(v) clause (j) shall be omitted.

3. For Chapter III of the principal Act, the following Chapter shall be substituted, namely:—

'CHAPTER III

RIGHT OF A MINORITY EDUCATIONAL INSTITUTION

10. (1) Any person who desires to establish a Minority Educational Institution may apply to the Competent authority for the grant of no objection certificate for the said purpose.

(2) The Competent authority shall,—

(a) on perusal of documents, affidavits or other evidence, if any; and

(b) after giving an opportunity of being heard to the applicant,

decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be:

Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

(3) Where within a period of sixty days from the receipt of the application under sub-section (1) for the grant of no objection certificate,—

(a) the Competent authority does not grant such certificate; or

(b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate,

it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

(4) The applicant shall, on the grant of a no objection certificate or where the Competent authority has deemed to have granted the no objection certificate, be entitled to commence and proceed with the establishment of a Minority Educational Institution in accordance with the rules and regulations, as the case may be, laid down by or under any law for the time being in force.

Explanation.—For the purposes of this section,—

(a) "applicant" means any person who makes an application under sub-section (1) for establishment of a Minority Educational Institution;

(b) "no objection certificate" means a certificate stating therein, that the Competent authority has no objection for the establishment of a Minority Educational Institution.

Substitution
of new
Chapter for
Chapter III.

Right to
establish a
Minority
Educational
Institution.

10A. (1) A Minority Educational Institution may seek affiliation to any University of its choice subject to such affiliation being permissible within the Act under which the said University is established.

(2) Any person who is authorised in this behalf by the Minority Educational Institution, may file an application for affiliation under sub-section (1) to a University in the manner prescribed by the Statute, Ordinance, rules or regulations of the University.'

4. In section 11 of the principal Act, for clauses (b) and (c), the following clauses shall be substituted, namely:—

"(b) enquire, *suo motu*, or on a petition presented to it by any Minority Educational Institution, or any person on its behalf into complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a University and report its finding to the appropriate Government for its implementation;

(c) intervene in any proceeding involving any deprivation or violation of the educational rights of the minorities before a court with the leave of such court;

(d) review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for their effective implementation;

(e) specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities;

(f) decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such;

(g) make recommendations to the appropriate Government for the effective implementation of programmes and schemes relating to the Minority Educational Institutions; and

(h) do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission."

5. In section 12 of the principal Act,—

(a) in sub-section (1), the word "Scheduled" shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973."

6. After section 12 of the principal Act, the following sections shall be inserted, namely:—

'12A. (1) Any person aggrieved by the order of refusal to grant no objection certificate under sub-section (2) of section 10 by the Competent authority for establishing a Minority Educational Institution, may prefer an appeal against such order to the Commission.

(2) An appeal under sub-section (1) shall be filed within thirty days from the date of the order referred to in sub-section (1) communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

Right of a Minority Educational Institution to seek affiliation.

Amendment of section 11.

Amendment of section 12.

45 of 1860.

2 of 1974.

Insertion of new sections 12A to 12F.

Appeal against orders of the Competent authority.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) The Commission, after hearing the parties, shall pass an order as soon as may be practicable, and give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

(5) An order made by the Commission under sub-section (4) shall be executable by the Commission as a decree of a civil court and the provisions of the Code of Civil Procedure, 1908, so far as may be, shall apply as they apply in respect of a decree of a civil court.

5 of 1908.

Power of Commission to decide on the minority status of an educational institution.

12B. (1) Without prejudice to the provisions contained in the National Minority Commission Act, 1992, where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission.

19 of 1992.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order communicated to the applicant:

Provided that the Commission may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Commission shall be made in such form as may be prescribed and shall be accompanied by a copy of the order against which the appeal has been filed.

(4) On receipt of the appeal under sub-section (3), the Commission may, after giving the parties to the appeal, an opportunity of being heard, decide on the minority status of the educational institution and shall proceed to give such directions as it may deem fit and, all such directions shall be binding on the parties.

Explanation.—For the purposes of this section and section 12C, "authority" means any authority or officer or commission which is established under any law for the time being in force or under any order of the appropriate Government, for the purpose of granting a certificate of minority status to an educational institution.

Power to cancel.

12C. The Commission may, after giving a reasonable opportunity of being heard to a Minority Educational Institution to which minority status has been granted by an authority or Commission, as the case may be, cancel such status under the following circumstances, namely:—

(a) if the constitution, aims and objects of the educational institution, which has enabled it to obtain minority status has subsequently been amended in such a way that it is no longer reflects the purpose, or character of a Minority Educational Institution;

(b) if, on verification of the records during the inspection or investigation, it is found that the Minority Educational Institution has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage governing admissions during any academic year.

Power of Commission to investigate matters relating to deprivation of educational rights of minorities.

12D. (1) The Commission shall have the power to investigate into the complaints relating to deprivation of the educational rights of minorities.

(2) The Commission may, for the purpose of conducting any investigation pertaining to a complaint under this Act, utilise the services of any officer of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(3) For the purpose of investigation under sub-section (1), the officer whose services are utilised may, subject to the direction and control of the Commission,—

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(4) The officer whose services are utilised under sub-section (2) shall investigate into any matter entrusted to it by the Commission and submit a report thereon to it within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such further inquiry as it may think fit.

12E. (1) The Commission, while enquiring into the complaints of violation or deprivation of educational rights of minorities shall call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto, within such time as may be specified by it:

Provided that,—

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint;

(b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required, or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(2) Where the inquiry establishes violation or deprivation of the educational rights of the minorities by a public servant, the Commission may recommend to the concerned Government or authority, the initiation of disciplinary proceedings or such other action against the concerned person or persons as may be deemed fit.

(3) The Commission shall send a copy of the inquiry report, together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken, or proposed to be taken thereon, to the Commission.

(4) The Commission shall publish its inquiry report and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

12F. No court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall entertain any suit, application or other proceedings in respect of any order made under this Chapter.

Bar of jurisdiction.

7. Section 18 of the principal Act shall be omitted.

Omission of section 18.

8. In section 24 of the principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 24.

"(aa) the forms in which appeal under sub-section (3) of section 12A and sub-section (3) of section 12B shall be made;".

9. The Schedule to the principal Act shall be omitted.

Omission of Schedule.

STATEMENT OF OBJECTS AND REASONS

The National Commission for Minority Educational Institutions Act, 2004 was enacted to constitute a Commission for Minority Educational Institution. The functions of the said Commission were to advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it; to look into specific complaint regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice; to decide on any dispute relating to affiliation to a Scheduled University; to report its findings to the Central Government for its implementation. The said Act also provides right of a Minority Educational Institution to seek affiliation to any of six Scheduled Universities, namely, (i) University of Delhi, (ii) North-Eastern Hill University, (iii) Pondicherry University, (iv) Assam University, (v) Nagaland University, and (vi) Mizoram University. The Commission was also given power to determine disputes regarding affiliation between Minority Educational Institutions and the Scheduled Universities.

2. Based on the experience of the functioning of the Commission, it was felt that by limiting the scope of affiliation only to said six Scheduled Universities, the applicability of the Act has been severely restricted. The Commission as well as the Government received several representations and suggestions for a more proactive role for the Commission in order to enable it to be an effective instrument in deciding on matters of deprivation or violation of the educational rights of the minorities guaranteed under article 30 of the Constitution. The majority of the representation received by the Commission have drawn attention to the problems faced by minority communities in obtaining no objection certificate for establishing an educational institution and, for such eligible institutions from obtaining the status of being a minority institution.

3. In keeping with the commitment of the Government in the National Common Minimum Programme regarding the setting up of the National Commission for Minority Educational Institutions, it is further proposed to empower the Commission to make its functioning more effective and purposive in meeting the aspirations of minority communities in regard to their educational rights under the Constitution, therefore the present Bill.

4. The salient features of the Bill are as follows:—

(i) it provides for the right to establish a Minority Educational Institution and also provides that wherever no objection certificate for establishing a Minority Educational Institution is either not granted within a period of sixty days or where a decision in this regard is not communicated within such period, the Minority Educational Institution would proceed with the establishment of the institution as if the no objection certificate has been granted to it;

(ii) it provides for the right of Minority Educational Institutions to seek affiliation to any University of their choice subject to the Acts, Statutes, Ordinances, Rules and Regulations of the concerned University;

(iii) it is also proposed to give appellate jurisdiction to the Commission in the matters of refusal to grant no objection certificate for establishing a Minority Educational Institution;

(iv) it enables the National Commission for Minority Educational Institutions to enquire into and investigate complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and, also to decide on disputes relating to affiliation of Minority Educational Institutions to a University;

(v) it also enables the Commission to decide on all questions relating to the status of any institution as a Minority Educational Institution;

(vi) it empowers the Commission to cancel recognition as a Minority Educational Institution, where it is found by the Commission that the purpose or character on

which a Minority Educational Institution status was granted and also in admitting students belonging to the minority community as per rules and prescribed percentage, has failed;

(vii) it provides that every proceeding before the Commission shall be deemed to be a judicial proceeding and, the orders made by the Commission shall be executable by it as a decree of a civil court;

(viii) it empowers the Commission to utilise the services of any officer of the Central Government or any State Government, with the concurrence of such Government, for the purpose of conducting investigation pertaining to complaints received by the Commission;

(ix) it bars the jurisdiction of courts (except the Supreme Court and the High Courts) to entertain any suit, application or other proceedings in respect of orders made by the Commission;

(x) in addition to the above certain minor and consequential amendments have also been proposed.

5. The Bill seeks to achieve the above objects.

ARJUN SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to insert new section 12A which provides for appeal against orders of the Competent authority to grant no objection certificate for establishing a Minority Educational Institution. Sub-section (3) of said section provides that an appeal shall be made in such form as may be prescribed by the Central Government.

2. Further, the said clause also seeks to insert new section 12B which empowers the Commission to decide on the minority status of an educational institution. Sub-section (2) of the said section provides the right of appeal to an aggrieved person whose application for minority status has been rejected. Sub-section (3) of said section provides that an appeal shall be made in such form as may be prescribed by the Central Government.

3. The forms of appeal which may be prescribed under the above said sections are matters of procedure or detail and is not practicable to provide for them in the Bill itself. The forms prescribed shall be laid before each House of Parliament.

4. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. LXXXVI OF 2005

A Bill further to amend the Indian Medical Council Act, 1956.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2005.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

102 of 1956. 2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), in section 2,—

Amendmeot
of section 2.

(i) after clause (f), the following clause shall be inserted, namely:—

‘(ff) “member” means the member of the Council and includes the President and the Vice-President;’;

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(gg) “President” means the President of the Council;’;

(iii) for clause (l), the following clause shall be substituted, namely:—

‘(l) “University” means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act and having a medical faculty;’;

(iv) after clause (l), the following clause shall be inserted, namely:—

‘(m) “Vice-President” means the Vice-President of the Council.’.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) one member from each State or Union territory, to be elected from amongst themselves who are the members of the medical faculty of the Universities in the State or the Union territory which are awarding recognised medical qualifications:

Provided that in a State having more than ten medical colleges awarding recognised medical qualifications, one member for every such ten colleges shall be elected:

Provided further that such number of members shall be reviewed by the Central Government after every five years;”;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) one member from each State in which a State Medical Register is maintained, to be elected from amongst themselves who are the members of the State Medical Council;”;

(iii) clause (d) shall be omitted;

(iv) after clause (e), the following clauses shall be inserted, namely:—

“(f) the Director General of Health Services, *ex officio*;

(g) the Director General (Armed Forces Medical Services), *ex officio*;

(h) the Director, All India Institute of Medical Sciences, New Delhi, *ex officio*;

(i) the President, National Board of Examinations, New Delhi, *ex officio*;”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The President and the Vice-President of the Council shall be elected by the members of the Council from amongst themselves:

Provided that no person shall hold office in any capacity whether as the President or the Vice-President for more than two terms.”.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. (1) The Central Government shall, as soon as possible, after the commencement of the Indian Medical Council (Amendment) Act, 2005, reconstitute the Council, and by notification in the Official Gazette, publish the names of the members nominated or elected under sub-section (1) of section 3.

(2) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2005, the existing Council shall stand dissolved and all the members of the Council shall vacate their offices.

3 of 1956.

Insertion of new
section 3A.

Reconstitution
of Council.

(3) The Central Government shall appoint a Board of Administrators consisting of not more than five members headed by a Chief Administrator, who are otherwise eligible to hold the office of the members of the Council, which shall exercise the powers and perform the functions of the Council till the new Council is reconstituted in the manner provided under this Act or the expiry of six months, whichever is earlier.”.

5. In section 4 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) An election under clause (b) or clause (c) of sub-section (1) of section 3 shall be conducted by such authority and in accordance with such rules as may be made by the Central Government in this behalf.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If the authority is unable to conduct the elections referred to in sub-section (1), within a period of three months from the date of occurrence of the vacancy, it shall record the reasons thereof and the Central Government, on being satisfied of the reasons shall, till such time the member is elected in accordance with the provisions of sub-section (1), fill the vacancy,—

(a) falling under clause (b) of sub-section (1) of section 3, by nomination of,—

(i) the Vice-Chancellor in case of a State where the University of Health Sciences has been established and in the event of his being ineligible, any eligible member from the medical faculty of that University in consultation with the State; or

(ii) an eminent member belonging to the medical faculty in case of a State or Union territory having University with such faculty in consultation with that State or the Union territory, as the case may be; and

(b) falling under clause (c) of sub-section (1) of section 3, by nomination of the person who is enrolled as a member on the State Medical Register in the concerned State,

and the member so nominated shall be deemed to have been duly elected under section 3 and shall hold office till the expiry of the term specified under sub-section (2) of section 7 or till such time the member is elected in accordance with the provisions of sub-section (1) of this section, whichever is earlier.”.

6. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) No person shall be eligible for nomination or election under sub-section (1) of section 3 or sub-section (1A) of section 4 unless he possesses any of the medical qualifications included in the First and the Second Schedule and Part II of the Third Schedule, and is permanently enrolled on any State Medical Register or the Indian Medical Register:

Provided that no person shall be eligible for nomination under clause (a) of sub-section (1) of section 3 unless he resides in the State concerned and where a State Medical Register is maintained in that State he is also enrolled on that Register.”.

7. In section 7 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of this section, sub-section (1) of section 30A or section 30B, a member, other than an *ex officio* member, whether

Amendment
of section 4.

Amendment
of section 5.

Amendment
of section 7.

nominated or elected, shall hold office for a term of five years from the date of issue of the notification appointing him as a member of the Council by the Central Government:

Provided that no member shall continue to hold office beyond three months after the expiry of his term of five years, unless re-nominated or re-elected.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) A member nominated under sub-section (1A) of section 4 shall be deemed to have vacated his seat from the date of issue of the notification by the Central Government appointing his duly elected successor in accordance with the provisions of sub-section (1) of that section.”.

Amendment
of section 10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Executive Committee, hereinafter referred to as the Committee, shall consist of the President and the Vice-President who shall be members *ex officio*, other *ex officio* members under clauses (f), (g), (h) and (i) of sub-section (1) of section 3 and nine other members who shall be elected by the Council from amongst its members.”.

9. After section 30 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
30A, 30B,
30C, 30D and
30E.

Removal of
President,
Vice-President
or member of
Council.

“30A. (1) The Council may recommend to the Central Government for removal of the President, the Vice-President or any member on the grounds of misconduct or incapacity by a resolution passed by a majority of the total membership of the Council excluding the vacancies and a two-thirds majority of the members present and voting after having given a reasonable opportunity of being heard, and the Central Government may, after being satisfied of the grounds on which such removal is recommended, remove the President, the Vice-President or the member from the Council in accordance with such rules as may be made by it:

Provided that the Council shall, before making any recommendation for removal of a member, consider the views of a Disciplinary Committee constituted for the purpose, which shall follow such procedure as the Central Government may by rules determine.

(2) When the President is removed by an order under sub-section (1), during the period of such removal the powers and duties conferred and imposed on the President under this Act shall be exercised and performed by the Vice-President.

(3) Where the Vice-President is removed by an order under sub-section (1), during the period of such removal the powers and duties conferred and imposed on the Vice-President under this Act shall be exercised and performed by such person as the Central Government may appoint in that behalf from amongst the members of the Council.

(4) The President or the Vice-President or the member, as the case may be, shall be elected in the manner provided under this Act within the period of three months from the date on which the order of removal was issued under sub-section (1).

Withdrawal or
removal of
nominated
members of
Council.

30B. Notwithstanding anything contained in section 7, if the Central Government considers it to be expedient in the public interest or on the recommendation of the State Government concerned that a member nominated to the Council under clause (a) or clause (e) of sub-section (1) of section 3 should withdraw from the Council, the Central Government may give such direction and if the member refuses to comply with the direction so given, it may, by order, remove such member from the Council.

30C. (1) In the discharge of its functions under this Act, the Council shall be guided by such directions, as may be given to it in the public interest, by the Central Government.

Directions by Central Government.

(2) If any dispute arises between the Central Government and the Council as to whether a question relates to public interest or not, the decision of the Central Government thereon shall be final.

30D. (1) If the Central Government is of the opinion that the Executive Committee or any other committee of the Council is unable to perform or has made persistently defaults—

(a) in the performance of the duties imposed on it by or under this Act or has exceeded or abused its powers; or

(b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C,

the Central Government may, by notification published, together with a statement of reasons therefor, in the Official Gazette, dissolve the Executive Committee or such other committee:

Provided that before issue of such notification, the Central Government shall give a reasonable time to the Executive Committee or such other committee, as the case may be, to show cause why it should not be dissolved and shall consider the explanations and objections, if any, of the Executive Committee or such other committee.

(2) Upon the publication of a notification under sub-section (1) dissolving the Executive Committee or, as the case may be, such other committee,—

(a) all members of the Executive Committee, or the other committee shall, notwithstanding that their term of office had not expired, as from the date of dissolution, vacate their offices as such members;

(b) all powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Executive Committee or the other committee, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in that behalf from amongst the members of the Council:

Provided that the term of office of the person or persons so appointed under this sub-section shall not exceed a period of six months or till the time a new Executive Committee or such other committee is constituted, whichever is earlier.

30E. (1) If the Central Government is of the opinion that the President or the Vice-President or the member of the Executive Committee or any other committee of the Council is unable to perform or has made persistently defaults—

(a) in the performance of the duties imposed on him under this Act or has exceeded or abused his powers; or

(b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C,

the Central Government may remove from office the President or the Vice-President or the member, as the case may be:

Power of Central Government to remove President, Vice-President or member of Executive Committee or any other committee.

Provided that before issue of such removal, the Central Government shall give a reasonable opportunity of being heard to the President or the Vice-President or the member, as the case may be, to show cause why he should not be removed from office and shall consider the explanations and objections, if any, of the President or the Vice-President or the member.

(2) Upon the removal from office under sub-section (1),—

(a) the President or the Vice-President or the member shall, notwithstanding that his term of office had not expired, as from the date of removal from office, vacate the office as such President or the Vice-President or member;

(b) all powers and duties which may, under the provisions of this Act, be exercised or performed by the President or the Vice-President, as the case may be, shall, during the period of removal from office, be exercised and performed by such person as the Central Government may appoint in that behalf from amongst the members of the Council:

Provided that the term of office of the person so appointed under this sub-section shall not exceed a period of six months or till the time a new President or the Vice-President or the member, as the case may be, is elected in the manner provided under this Act, whichever is earlier.”.

Amendment of section 32.

10. In section 32 of the principal Act,—

(a) in sub-section (1), the brackets and figure “(1)” shall be omitted;

(b) sub-section (2) shall be omitted.

Insertion of new sections 33A and 33B.

11. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Power of Central Government to issue directions for making or amending regulations.

“33A. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Council.

Laying of rules and regulations.

33B. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.”.

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 (IMC) provides for composition of the Medical Council of India (MCI), which includes elected and nominated representatives. The composition of the Council has been reviewed to examine whether it was helping to serve the purposes intended in the light of various developments in the field of medical education. It was found that the Council has lost its representative character due to (a) large number of vacancies in the elected category; (b) States having larger number of medical colleges, but having formed a medical university, are having fewer seats in the Council as compared to States having fewer colleges affiliated to several Universities; (c) lack of interaction between the State Medical Councils and the MCI; and (d) representation was still being given to those categories which are no more in existence. It is, therefore, considered necessary to make the composition of the Council compact and representative and also empower the Central Government to ensure that large number of vacancies, particularly in the elected category remain filled. Since the composition of the revised Council is likely to be substantially different from the existing one, a new section 3A relating to reconstitution of the Council is proposed to be inserted in the IMC Act, 1956.

2. The Council's main function as contained in the IMC Act, 1956 is to make recommendations to the Central Government in matters of recognition of medical qualifications, determining the courses of study and examinations required to obtain such qualifications, inspection of examinations and maintenance of register of medical practitioners, etc. By the amendment of the said Act in 1993, the power to grant permission for establishment of new Medical Colleges, increase in intake capacity or for starting higher courses in the established Colleges was entrusted to the Central Government from the respective State Governments. For this purpose, the MCI became a recommendatory body to the Central Government for taking final decisions in these matters. After reviewing the working of the Council in this area, and the problems being faced, a need has been felt to empower the Central Government to give such directions to the Council wherever necessary on matters of policy and public importance and to ensure their proper compliance, and also Council's accountability to the tasks entrusted to it. As in other statutory bodies, it is also proposed to make provisions for removal of members of the Council, and in specified circumstances, dissolution of the Executive Committee or any other Committee.

3. The proposed legislative measures will make the composition of the Council compact, comprehensive and representative, and empower the Central Government to discharge its functions effectively to ensure proper development of medical education in the country.

4. The present Bill is intended to achieve the above objects.

ANBUMANI RAMADSOSS.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 5 of the Bill empowers the Central Government to make rules for conducting elections under clause (b) or clause (c) of sub-section (1) of section 3, by an authority so authorised under the rules. Similar rule making power for conducting election is available to the Central Government under the existing provisions.

2. Clause 9 of the Bill provides for insertion of a new section 30A for removal of the President, the Vice-President or a member of the Council in certain cases. It is proposed that the Central Government may frame procedural rules under which the President and the Vice-President of the Council may be removed. The Council shall, before making any recommendation for removal of a member, consider the views of the Disciplinary Committee, constituted for the purpose. It is proposed that the procedure, etc., to be followed by the Disciplinary Committee shall be determined by rules framed by the Central Government.

3. The rules made under the proposed legislation shall be required to be laid before Parliament.

4. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN,
Secretary-General.